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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/342,255	06/29/99	OGURA	M 35.C11293DI

☐ 005514 MMC1/0926 ☐  
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EXAMINER

SEMBER, T

ART UNIT PAPER NUMBER

2875

DATE MAILED: 09/26/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/342,255

Applicant(s)

Ogura

Examiner  
Thomas M. Sember

Group Art Unit  
2875



☒ Responsive to communication(s) filed on Jun 29, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 45-51 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 45-51 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☒ received in Application No. (Series Code/Serial Number) 08/617,634.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 08/617,634, filed on 03/19/1996.

***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of light sources claimed in claim 50 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the plurality of light sources as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MEP. § 608.02(d). Correction is required.

***The applicant files a divisional application but claims the same invention as before, thus:***

***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 45-51 are rejected under the judicially created doctrine of double patenting over claims 1-46 of U. S. Patent No. 6,015,200 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MEP. § 804.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows:

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending

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application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MEP.  
§ 804.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 45-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohno. Ohno discloses a light conducting member 3 light entrance in a part of a lateral surface other than an end in the longitudinal direction of a rod-shaped translucent member. The member 3 includes a reflecting/diffusing inclined surface 5 opposed to the entrance face. The inclined surface 5 reflects/diffuses light to an exit face of the light conductive member 3.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 45-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Dros.

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Dros discloses a light conducting member 23 light entrance in a part of a lateral surface other than an end in the longitudinal direction of a rod-shaped translucent member. The member 23 includes a reflecting/diffusing inclined surface 25 opposed to the entrance face. The inclined surface 25 reflects/diffuses light to an exit face of the light conductive member 23.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 45-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamada et al.

Yamada et al discloses a light conducting member 15 having a light entrance in a part of a lateral surface other than an end in the longitudinal direction of the rod-shaped light conducting member. The member 15 includes a reflecting/diffusing inclined surface 23 opposed to the entrance face. The inclined surface 23 reflects/diffuses light to an exit face of the light conductive member 15.

***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

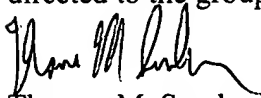
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ohno et al or Dros or Yamada et al. Ohno et al or Dros or Yamada et al discloses the claimed invention except for LED. It would have been an obvious engineering design choice to substitute an LED for the light sources of Ohno et al or Dros or Yamada et al in order to provide a long lasting low energy light source.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Sember whose telephone number is (703) 308-1938. The examiner can normally be reached on Monday - Thursday from 8:00 AM - 5:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea, can be reached at (703) 305-4939. The fax phone number for this group is (703) 308-7724.

Any inquiries of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-4900.



Thomas M. Sember  
Primary Examiner  
September 19, 2000